

Nos. 22-1972, -1973, -1975, -1976

IN THE
United States Court of Appeals
FOR THE FEDERAL CIRCUIT

MASIMO CORPORATION,

Appellant,

v.

APPLE INC.,

Appellee,

APPEAL FROM THE PATENT TRIAL AND APPEAL BOARD
CASE NOS. IPR2020-01713, IPR2020-01716, IPR2020-01733, IPR2020-01737

**UNOPPOSED MOTION BY APPELLANT MASIMO CORPORATION
FOR EXTENSION TO FILE OPENING BRIEF**

September 30, 2022

Joseph R. Re, *Principal Counsel*

Stephen C. Jensen

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Attorneys for Appellant

Masimo Corporation

Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Appellant Masimo Corporation (“Appellant” or “Masimo”) respectfully requests an extension of time to file its principal brief. The principal brief is currently due on October 11, 2022, and Masimo seeks a 60-day extension. Based on this extension Masimo’s new date for submission of its principle brief is December 12, 2022. This is Masimo’s first request for an extension of time.

As described in the following declaration of Masimo’s counsel, Jeremiah S. Helm, there is good cause for this extension due to the fact that the attorneys involved in or contributing to this case have conflicts involving obligations including other appeals. Helm Decl. ¶ 2. The conflict with these proceedings provide good cause for an extension. *Id.* ¶¶ 1-3. Counsel for Appellee Apple Inc., has indicated that Apple does not oppose this motion. *Id.* ¶ 4.

For the foregoing reasons, Masimo respectfully requests a 60-day extension, with December 12, 2022 as the new date for submission of its principle brief.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

September 30, 2022

/s/ Jeremiah Helm
Joseph R. Re, Principal Counsel
Stephen C. Jensen
Jarom D. Kesler
Stephen W. Larson
Jeremiah Helm
Attorneys for Appellant,
Masimo Corporation

**DECLARATION OF JEREMIAH S. HELM IN SUPPORT OF
APPELLANT’S UNOPPOSED MOTION FOR EXTENSION OF TIME
TO FILE PRINCIPAL BRIEF**

I, Jeremiah S. Helm, declare as follows:

1. I am an attorney admitted to practice before this Court and a partner at the law firm of Knobbe, Martens, Olson & Bear, LLP (“Knobbe Martens”). I am counsel of record for Appellant Masimo Corporation (“Masimo”) in this appeal. I have personal knowledge of the facts in this declaration, and if called and sworn as a witness, could testify competently to them. I make this declaration in support of Masimo’s motion for a 60-day extension of time to file its principal brief.

2. There is good cause for the requested extension of time due to the fact that the attorneys involved in or contributing to this proceeding are also involved in the following matters:

- *Masimo Corp. v. Apple Inc.*, 22-1631 (consolidated with 22-1632, 22-1633, 22-1634, 22-1635, 22-1636, 22-1637, 22-1638)
- *Masimo Corp. v. Apple Inc.*, 22-1894
- *Masimo Corp. v. Apple Inc.*, 22-1895
- *Masimo Corp. v. Apple Inc.*, 22-2069 (consolidated with 22-2070, 22-2071, 22-2072)
- *Apple Inc. v. Masimo Corp.*, 22-1890
- *Apple Inc. v. Masimo Corp.*, 22-1891

- *Masimo Corp. v. Sotera Wireless, Inc.*, 22-1393
- *Masimo Corp. v. Sotera Wireless, Inc.*, 22-1415
- *Masimo Corporation and Cercacor Laboratories, Inc. v. Apple Inc.*, U.S. District Court for the Central District of California, Case No. 8:20-cv-00048-JVS

3. In view of the foregoing obligations including other appeals involving counsel involved in or contributing to this appeal, the requested extension of time to file Masimo's principal brief is necessary. Without an extension Masimo will suffer hardship related to the unavailability of the attorneys contributing to and/or involved with this appeal to make contributions to this case due to other obligations.

4. On September 28, 2022, counsel for Appellee Apple Inc. stated that Apple does not oppose this motion.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this September 30, 2022, at Irvine, California.

/s/ Jeremiah Helm

Jeremiah Helm

Knobbe, Martens, Olson & Bear, LLP

CERTIFICATE OF INTEREST

Counsel for Appellant Masimo Corporation certifies the following:

1. The full name of every party represented by me is:

Masimo Corporation.

2. The name of the real party-in-interest represented by me is:

Masimo Corporation.

3. All parent corporations and any publicly held companies that own more than 10 percent or more of the stock of the party represented by me are:

BlackRock Inc.

4. The name of all law firms and the partners or associates that appeared for the party in the lower tribunal or are expected to appear for the party in this court and who are not listed on the docket for the current case:

Knobbe, Martens, Olson & Bear, LLP: William R. Zimmerman and Jacob L. Peterson.

5. The case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal:

- Masimo Corporation v. Apple Inc., U.S. Court of Appeals for the Federal Circuit, Case No. 22-1631 (consolidated with Case Nos. 22-1632, 22-1633, 22-1634, 22-1635, 22-1636, 22-1637, 22-1638)

- Masimo Corporation v. Apple Inc., U.S. Court of Appeals for the Federal Circuit, Case No. 22-2069 (consolidated with Case Nos. 22-2070, 22-2071, 22-2072)
- Masimo Corporation and Cercacor Laboratories, Inc. v. Apple Inc., U.S. District Court for the Central District of California, Case No. 8:20-cv-00048-JVS

6. Information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees):

None.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

September 30, 2022

/s/ Jeremiah Helm

Joseph R. Re, Principal Counsel

Stephen C. Jensen

Jarom D. Kesler

Stephen W. Larson

Jeremiah Helm

Attorneys for Appellant,
Masimo Corporation

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that on September 30, 2022, the foregoing **UNOPPOSED MOTION BY APPELLANT MASIMO CORPORATION FOR EXTENSION TO FILE OPENING BRIEF** was filed using the Court's CM/ECF system, which will send notice of such filing to all registered CM/ECF users.

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 30, 2022

By: /s/ Jeremiah Helm

Joseph R. Re

Stephen C. Jensen

Jarom D. Kesler

Stephen W. Larson

Jeremiah Helm

Attorneys for Appellant,
Masimo Corporation

CERTIFICATE OF COMPLIANCE

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2). This brief contains 172 words.
2. This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6). This brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14 point font Times New Roman.

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: September 30, 2022

By: /s/ Jeremiah Helm

Joseph R. Re

Stephen C. Jensen

Jarom D. Kesler

Stephen W. Larson

Jeremiah Helm

Attorneys for Appellant,
Masimo Corporation